

REAL ESTATE COMMISSION
Professional & Vocational Licensing Division
Department of Commerce and Consumer Affairs
State of Hawaii

MINUTES OF MEETING

Date: Friday, February 28, 1986

Place: Board Room, 1010 Richards St.
Kamamalu Building, Honolulu, Hawaii

Present: G. A. "Red" Morris, Chairman
Joseph F. Blanco, Member
Gloria J. Damron, Member
Douglas R. Sodetani, Member
Yukio Takeya, Member
Peter N. Yanagawa, Member

Cynthia M. L. Yee, Information/Education Officer
Calvin Kimura, Acting Executive Secretary

Rodney Maile, Hearings Officer
Lorrin Kau, RICO Staff Attorney
Victoria S. Marks, RICO Staff Attorney
Peggy Comeau, HAR Executive Vice President
Eileen Luko, HAR Education Officer
Rudy Hirota, Licensee
Charles Brower, Hirota's attorney
John J. Napoleon, Restoration applicant
Anna Boyd, Broker applicant
Ian McDonald, Acting PB for Baird-Stewart & Assoc.
Susan Sato, Deputy Attorney General

Excused: Toru Kawakami, Vice Chairman
Constance B. Smales, Member
Gregg T. Yamanaka, Member

Call to Order: The meeting was called to order at 9:15 a.m. by
Chairman G. A. "Red" Morris.

Notice of Meeting: The notice of meeting was filed in the Office of
the Lt. Governor on February 21, 1986.

Minutes: Upon motion by Commissioner Takeya and seconded
by Commissioner Sodetani, the minutes of the
November 22, 1985, December 20, 1985, January 17,
1986 and January 23, 1986 meetings were
unanimously approved.

Hearings Officer's RE-83-193 David K. Wong
Reports:

The Hearings Officer stated that Mr. Wong may have not received the 5-day notice to present his oral arguments and recommends that this matter be deferred until the next Commission meeting.

The Chairman deferred the matter as requested.

RE-83-11 and RE-83-88 Rudy T. Hirota

Commissioner Takeya requested to be excused due to a conflict of interest as court appointed trustee over Mr. Hirota's bankruptcy action.

The Chairman deferred the matter until Commissioner Blanco is present for quorum requirement.

RE-84-279 James C. Salmon and James Salmon Realty

The Hearings Officer reviewed the Hearings Officer's findings of fact, conclusion of law and recommended decision which was previously distributed to the Commissioners.

Upon motion by Commissioner Sodetani and seconded by Commissioner Takeya, the Commission unanimously accepted Hearings Officer's recommended order.

RE-83-102 Herman Gomes

The Hearings Officer reviewed the Settlement Agreement which was previously distributed to the Commissioners.

Upon motion by Commissioner Sodetani and seconded by Commissioner Damron, the Commission unanimously approved the Settlement Agreement.

NOTE: Commissioner Blanco present.

RE-85-26 Times Realty, Inc.

The Hearings Officer reviewed the Settlement Agreement which was previously distributed to the Commissioners.

Upon motion by Commissioner Damron and seconded by Commissioner Sodehani, the Commission unanimously approved the Settlement Agreement.

RE-83-11 and RE-93-88 Rudy T. Hirota

Commissioner Takeya requested to be excused due to conflict of interest as stated earlier.

Chairman excused Commissioner Takeya from the meeting and noted that a quorum is maintained.

The Hearings Officer reviewed the Hearings Officer's findings of fact, conclusion of law and recommended decision and noted that written exceptions were filed by both sides, which were all previously distributed to the Commissioners.

The Commission heard oral arguments from the Respondent's attorney and the State's attorney. Questions were asked of both attorneys and Respondent by the Commissioners.

Respondent's attorney, Charles Brower, argued that this matter between the Complainant and Respondent is strictly a contractual problem. Admittedly the contract has been breached but not due to Respondent's control or his intent. The investors knew they were purchasing an undivided interest and the contract stated the subdivision plan was not approved. The investors came to the Respondent to invest into Puna Shores, Inc., whose stock was owned by Respondent's wife. Although the Respondent did receive commissions, there were no other findings of personal benefit. The Respondent had an interest on the subject property via an agreement of sale and the Hearings Officer did not feel that he failed to disclose ownership. The Respondent was current on all the agreement of sale payments and used his own monies for the down payment. There was no stipulation as to how the funds collected from the investors were to be utilized nor that it be solely used for Puna Shores, Inc. In addition, there were no representations that the investors' monies be placed into a trust account. The Respondent had every intention of completing the subdivision and nothing is shown otherwise. It is more logical that Respondent intended to complete the

subdivision project. The Respondent had no intention of defrauding the investors nor did he intend to commingle any investors' funds. The Respondent intends to repay the investors if allowed to continue his real estate business. The Respondent has been in the real estate business over 20 years with no prior complaints.

State's attorney, Victoria Marks, argued that the Respondent was the principal broker of the real estate firm which represented the developer, Puna Shores, Inc. Puna Shores, Inc. was controlled by the Respondent. The investors negotiated their investments thru the Respondent's real estate firms, the contracts were DROAs, tax map key was used, individual lots were represented, and the Respondent was personally involved in the transactions by signing DROAs. Puna Shores, Inc. purchased the subject parcel at \$375,000 via an agreement of sale with \$93,000 down payment. The Respondent collected about \$1,100,000 from investors into this project. Only \$200,000 was spent on the project and the balance of the agreement of sale was not paid off when it was due. About \$400,000 of the investors' monies was paid to Farm and Ranches, Inc., another corporation controlled by the Respondent. The Respondent did not inform the investors that the subject property was under an agreement of sale, failed to inform the investors of his interest in the subject property, failed to secure written consent in acting for both seller and buyer. The subdivision maps were owned by Hirota and Associates, Inc. The Respondent's intent at the time he solicited the funds versus what he is representing as his intent today are different matters. If the Respondent is clean, why did he take the fifth amendment at the hearing?

Charles Brower stated that the Respondent has a right to take the fifth amendment as he was charged with Subdivision Law violations which has criminal penalties. The Respondent has every intention of repaying the investors as he has opted to change his Chapter 7 bankruptcy action to Chapter 11 which is a reorganization action.

Respondent stated that he is attempting to get reorganized and may repay the investors by the end of the year or by the end of 1987.

Victoria Marks stated that it was beyond any record. There are 3 Complainants due over \$22,000 each which is just part of the \$1,100,000 due all investors. Under Chapter 11, the investors may not receive 100% on their investment. Respondent's attorney, Charles Brower, further stated that under Chapter 11, debts are paid off if possible but the ultimate goal is to reorganize to have the ability to repay.

Since the participants and the Commissioners had no more questions or arguments, the Chairman thanked all participants and deferred this matter.

Chairman excused himself from the meeting and appointed Commissioner Takeya to be Acting Chairman upon return from a short recess.

Call to Order:

Acting Chairman Takeya reconvened the meeting.

Additions to Agenda:

Upon motion by Commissioner Blanco and seconded by Commissioner Yanagawa, the Commission unanimously approved to add the following items to the agenda.

1. NARELLO Board of Director's Meeting
2. NARELLO Committee - Agency/Subagency Meeting
3. Thomas B. Wilson Jr., dba Ala Moana Realty
4. Spot Real Estate School
5. Staff Contract

Real Estate Schools:

Acting Executive Secretary stated that Paige B. Vitousek, President of the Hawaii Association of Real Estate School, was unable to attend the meeting and will be available next meeting.

Committee Reports: Laws and Rules Review Committee

1. Modification to Proposed Rules, public hearing October 25, 1985

Recommend that Commission adopt as modified.
2. 1985-1986 Fiscal Year Plan of Work

Recommend that Education Committee study an education seminar for consumers on agency/subagency.

3. Legislative Bills

- a. Condominium lease to fee simple ownership and lease renegotiation bills.

Recommend that Commission continue neutral position with exception of bills that directly affect Commission.

- b. Salesperson Compensation Bills

Recommend that Commission staff draft a resolution for a study on this matter.

- c. HPR Public Report Bill

Recommend that Commission staff disseminate the new report format to the Hawaii Bar Association and interested attorneys.

4. Proposed rule as referred to Education Committee

Commissioner Blanco stated that the proposed rule for section 16-99-61 be remanded back to the Education Committee.

Recommend that the Commission adopt as referred from Education Committee.

5. SBMP Proposal for statewide seminars

Commissioner Blanco stated that this matter was incorrectly included with this Committee report as it should be on the Education Committee report.

Commissioner Sodetani moved to approve the Laws and Rules Review Committee report as amended and approved all recommendations. Commissioner Blanco seconded and unanimously approved.

Education Committee Report

1. ETS contract

Recommend executing a one year contract with ETS for the administration for the licensing exams.

2. Instructor Application

- a. Recommend approval of Terrence Lee as a salesman instructor.
- b. Recommend further investigation of Robert Furin's application for broker instructor.

3. Curriculum Review Committee - Broker - New Licensee Study

Recommend Commission contract Dr. Raymond R. Panko to conduct the "Broker - New Licensee" survey with the resulting information used to review, evaluate and modify the current approved pre-license sales curriculum.

Recommend Commission contract SBMP to assist Dr. Panko in the survey.

Recommend Commission increase the budget for the Curriculum Review project to \$8,000.

4. SBMP Seminar proposal

Recommend Commission approve SBMP seminar proposal as specified with notification to licensees by direct mail flyers, seminar to be spread out and seminar to cost licensee about \$5.00.

Commissioner Sodeani moved to approve the Education Committee report as amended and approve all recommendations. Commissioner Blanco seconded and unanimously approved.

Commissioner Blanco requested that HAR submit a list of subject matter they would like covered in future seminars. Eileen Luko stated a list was submitted late 1985 but they will submit a new list.

Oral Presentations: Acting Chairman moved up on the agenda, John J. Napoleon, Ian McDonald and Anna Boyd as they have been waiting awhile for oral presentations.

John J. Napoleon

Request that the Commission approve the restoration of his forfeited license. As stated

in letter to Commission, he has been involved as an employee of his church in handling real estate business. He will be willing to attend real estate courses to better his knowledge.

Ian McDonald

Request that the Commission allow the continuation of the conditional license of Baird-Stewart and Associates, Inc. That he will transfer his license to become the principal broker and have direct management of the firm. That David L. Baird and Dorothy Stewart will take the April 1986 real estate broker examination.

Anna Boyd

Request that the Commission study the real estate licensing examination and ETS, who administers the exam. That she had taken the January 1986 broker exam and failed the state section by 4 points and the uniform section by 1 point. She had taken all 4 hours to complete the exam and admits that financing is her weak point. But that the exam does not test the person's ability to be a broker. The questions were tricky and ambiguous. Rather than trying to answer the questions, it became a situation where a person had to outguess the question. After being in the real estate full time for 5 years and had taken John Reilly's broker's course, she felt she was well prepared for the exam. Mr. Reilly had stated that he does not teach exam taking but real estate. She stated, as suggested by Commissioner Blanco, she will send a written analysis of the situation to the Commission to be brought up with ETS.

Acting Chairman stated that the matter of John J. Napoleon and Ian McDonald of Baird-Stewart and Associates, Inc. will be deferred back to its place on the agenda.

Licensing:

Corporation

A'O Pono, Inc. - 165 So. King St., #1106, Hon.
Howard H. Hamamoto, pb

Concord Capital Corporation - 126 Queen St., Ste 301, Hon.
Dennis T. Katsura, pb

Minutes of Meeting of February 28, 1986

Marilyn Edwards Realty, Inc. - Kohala Office
Bldg., Kapaau, HI
Marilyn M. Edwards, pb

HBBR, Inc. dba Hawaii Business Brokers & Realty -
1370 Kapiolani Blvd., Ste 103, Hon.
Shih Fong Choi, pb

Hotel Corporation of the Pacific, Inc. - 2255
Kuhio Ave., Ste 1800, Hon.
Glenn S. Nakamura, pb

Inter-Island Investment Company, Inc. - 1311
Kapiolani Blvd., #502, Hon.
Langsford N. Hooker, pb

R. Ishibashi, Inc. - 420 Waiakamilo Rd., Hon.
Robin J. Ishibashi, pb

Island Commercial, Ltd. - 333 Dairy Rd. Ste 201-D
Kahului
Warren Mills Haynes, Jr., pb

PWI Real Estate, Inc. - 95-390 Kuahelani Ave.
Mililani
Peter M. Wargo, pb

PY, Inc. - 222 Vineyard St., #603, Hon.
Peter N. Yanagawa, pb

Reber Properties, Inc. - 130 Merchant St., Ste
1600, Hon.
David J. Reber, pb

Resort Apartments, Inc. - 2511 So. Kihei Rd.,
Space J, Kihei
Evelyn M. Lentz, pb

Royal Coast Realty Corp. - Opelu Rd. #3&6 Kamuela
Eugene A. McCain, pb

Success Realty, Inc. - 688 Kinooole St., Ste 218
A, Hilo
Ivan V. Faxon, pb

Villiers Real Estate, Inc. - 1993 So. Kihei Rd.,
Ste 209, Kihei
Ralph Villiers, pb

Partnership

Ron Burla & Associates - Hualalai Ctr B-204
Hualalai, Kailua-Kona
Eileen Heath, pb

Branch Office

Carol Ball Inc. dba Carol Ball & Associates -
Lahaina Square H-4, Lahaina
Leanne S. Murray, bic

Utah-Waikiki Real Estate Corp. - 2119 Kalakaua
Ave., Hon.
Arthur J. Sonen, bic

Tradenname

Bratton Properties - Mark D. Bratton, dba, 900
Fort St., Ste 1777, Hon.

Louie C. Caday Realty - Louie C. Caday, dba,
98-211 Pali Momi #615, Aiea

Hawaii Business Brokers & Realty - Shih Fong
Choi, dba, 1370 Kapiolani Blvd., #103

Chew Nung Lum, Real Estate Broker - Chew Nung
Lum, dba, 1001 Bishop St., Ste 1900

B.K. Realty - Brian D. Kennelly, dba, Princeville
Ctr B-201, Hanalei

Commercial Real Estate Services - Ray E. Hulick,
dba, 900 Fort St. Mall, Hon.

Clyde M. Crawfoot Realty - Clyde M. Crawfoot,
dba, 75-5629 P Kuakini Hwy, Kailua-Kona

Ken Igawa Realty - Kenneth K. Igawa, dba, 1221
Kapiolani Blvd., Ste 6A-4, Hon.

Paul & Company - Paul H. Blackmon, dba, 76-6260
Koko Olua Pl., Kailua-Kona

Professional Marketing Associates - Lila N.
Murakami, dba, 60 N. Beretania St., #3803, Hon.

Regal Properties - Jo Jean Schieve, dba, 98-1268
Kaahumanu St., #205, Pearl City

Star Realty - Marie Terese Ewart, dba, 735 Bishop St., #410, Hon.

Sun Spot Properties - James E. Troughton, dba, 910 Honoapiilani Hwy, #9, Lahaina

Corporation Name Change

Kelly Realty, Inc. - formerly Bohannon & Kelly, Inc., 930 Wainee St., #1, Lahaina

Makena Realty, Inc. - formerly Haleakala Realty, Inc. - 651 Haleakala Hwy, Kahului

Jay Westcott & Associates, Inc. - formerly Westcott-Goldstein & Associates, Inc. 2222 Kalakaua Ave., #1000, Hon.

Tradename Change

Mary L. Spear Realtor - formerly Mary L. Spear, Broker, 765 Amana St., #302, Hon.

Yoshi Suenishi Realty - formerly Suenishi, 1314 S. King St., #1559, Hon.

Preferred Equities - formerly 1st Discount Realty, Helen A. Becker, dba, 94 Kam Ave., #1, Hilo

Restorations

| | |
|--------------------|------------------------|
| Adams, David W. | Nakata, Roy K. |
| Akana, Nicholas K. | Napoleon, John J. |
| Carter, Bert | Nicholson, Ronald J. |
| Comeau, Carol | Oie, Takeshi |
| Flynn, Michele L. | Omori, Walter H. |
| Gough, Pamela A. | Pierce, Leticia D. |
| Lee, Shirley Ann | Pisciotta, Tiffany Ann |
| Lee, William E. | Pisciotta, Victor J. |
| Mallin, Olympia M. | Reilly, Mary E. |
| Metler, Karen T. | Rimedio, Timothy R. |
| Nakasone, Lloyd M. | Timm, Theodora B. |
| Lee, Lucy L. H. | |

Commissioner Yanagawa requested to be excused as he knew one of the restoration applicants who was under two years of forfeiture personally.

Deputy Attorney General Sato stated since the Commission will rule on those who are under the two years of forfeiture as a group, it will not be considered a conflict.

Acting Chairman ruled that Commissioner Yanagawa is not under conflict as the Commission will rule for those under two years of forfeiture as a group and those over two years individually.

Commissioner Sodehara motioned that those applicants under two year of forfeiture, prior to restoration, will complete either one of the GRI courses or the SBMP course, Essentials of Real Estate successfully. Commissioner Damron seconded the motion and carried unanimously.

Michele L. Flynn
William E. Lee
Karen T. Metler
Roy K. Nakata
Leticia D. Pierce
Theodora B. Timm

The Commission reviewed the supporting documents submitted by the above named applicants. Commissioner Blanco moved that the above named applicants take and pass the appropriate real estate license examination once with education waiver as a condition to restoration. Commissioner Sodehara seconded and unanimously approved.

John J. Napoleon

The Commission reviewed and discussed the supporting documents submitted by Mr. Napoleon with his application for restoration. Commissioner Blanco moved that the above named applicant, as a condition to restoration, either take and pass the real estate salesman examination once with education waiver or successfully complete one of the Commission approved real estate courses (GRI or SBMP's Essentials of Real Estate). Commissioner Yanagawa seconded and unanimously approved.

Commissioner Blanco stated the Commission's policy has been that restoration applicants who has appeared to have conducted real estate

licensing functions while in the forfeited status should be referred to RICO for compliance review. Acting Executive Secretary will forward the information.

NOTE: Chairman Morris is present.

RECCAL Course Requirement

Joyce Okano Reed

Acting Executive Secretary stated that Ms. Reed, as a condition to restoration of license, had to complete RECCAL courses. She was able to attend all but one of the RECCAL course series, due to her child's illness. She had attended the Commission's Agency/Subagency course and request that it be substituted for the missed RECCAL course.

Commissioner Sodemani moved to accept the Agency/Subagency course for the missed RECCAL course which will allow restoration. Commissioner Damron seconded the motion and unanimously approved.

John W. Aldrich

The Commission reviewed Mr. Aldrich's letter which requested that he be allowed to take the broker's examination as a condition to restoration of salesman license. Commissioner Sodemani moved as a condition to restoration of salesman's license that either take and pass the real estate salesman exam once with education waiver or successfully complete Commission approved course (GRI or Essentials of Real Estate). Commissioner Damron seconded the motion and unanimously approved.

Questionable Applications

Josephine Ah Nee Tringali

The Commission reviewed and discussed the supporting documents submitted with license application forms. Commissioner Damron stated that it appears that her employer, Hawaiiana Management Corporation, is really behind her, has trust in her despite her previous trouble with the law, and has placed her in a position where she will have some control over monies.

Commissioner Blanco moved to approve the application for real estate salesman license. Commissioner Sodehani seconded the motion and unanimously approved.

Emmett H. Helms dba Jim Helms
Faye Iwanaga Realty, Dorothy F. Iwanaga dba
David D. Y. Jeong dba Trengo Realty
U.R. Services, Vernon A. Takato dba

The Commission reviewed and discussed the supporting documents submitted with license applications. Commissioner Damron moved to approve the license applications. Commissioner Yanagawa seconded and unanimously approved.

Waiver Requests

Robert E. Stengle

Acting Executive Secretary synopsisized the situation, Mr. Stengle is requesting reconsideration for experience waiver to the two years full-time experience as a real estate salesman. In the January 1986 Commission meeting, Mr. Stengle was granted 7 months waiver on experience as he requested. Upon continuing his license application, he was told that his employing broker's license was forfeited for 5 months, thus his license was on an inactive status for 5 months, which the Commission would not recognize to meet the two years experience requirement. Therefore, a reconsideration to review and grant a full year experience waiver.

Commissioner Morris moved to grant an additional 5 months experience waiver. Commissioner Damron seconded and unanimously approved.

Wesley S. Bentley

The Commission reviewed the supporting documents submitted with license application for broker's license. Commissioner Morris moved to grant a 6 month experience waiver only. Commissioner Blanco seconded the motion and unanimously approved.

Tabled Matter

Yamazaki Management Corporation dba YSM Hawaii Realty

The Commission reviewed the letter of withdrawal of license application. Commissioner Sodeani moved the tabled matter into consideration and accepted withdrawal. Commissioner Blanco seconded the motion and unanimously approved.

Conditional License

Baird-Stewart and Associates, Inc.

The Commission reviewed the supporting documents with licensing forms. Commissioner Blanco moved to allow the conditional license to continue under the following conditions in addition to others which the Commission staff feels necessary:

1. Ian McDonald will have to transfer license and become the principal broker. He will have direct management of the firm and be responsible for its brokerage activities.
2. David L. Baird and Dorothy Stewart will have to take and pass the April 1986 broker examination.
3. From November 1985 to the date that Mr. McDonald becomes the Principal Broker, Baird-Stewart and Associates license would be considered inactive.
4. The conditional license will cease upon notification of the April 1986 broker exam results.

Commissioner Damron seconded the motion and unanimously approved.

New Business:

Condominium Managing Agent - Fidelity Bond

The Commission reviewed letter. Chairman Morris stated that this matter is presently being discussed at the Legislature and hopefully can be resolved. The Commission has taken a position that more flexibility is needed in the bonding or liability insurance area. This matter will be reviewed after the session, depending on the results.

NARELLO Investigator Seminar - Funding

Acting Executive Secretary stated that RICO requested funding to send one investigator, Norman Lau to the seminar. Commissioner Damron moved to fund up to \$1,400. Commissioner Blanco seconded the motion and unanimously approved.

Miscellaneous:

NARELLO Board of Director's Meeting

Mary 2 - 4, 1986, Salt Lake City, Utah - Chairman to attend

NARELLO Committee Meeting - Agency/SubAgency

January 31 to February 2 1986, per diem for Chairman, plan fare paid by NARELLO

Commissioner Blanco moved to approve the above travel request and the per diem request. Commissioner Sodehara seconded the motion and unanimously approved.

Thomas B. Wilson Jr. dba Ala Moana Realty

The Commission reviewed the supporting documents with application. Acting Executive Secretary stated that the tradename of Ala Moana Realty was approved by the Commission on October 26, 1965 to Leonard K. H. Lau. At that point in time, the Commission had no requirement that the tradename be registered with the Business Registration Division. Mr. Wilson has registered the tradename with Business Registration Division in 1985.

Deputy Attorney General Sato stated that it is understood that the first licensee allowed to use the tradename by the Commission should be allowed to continue unless right is relinquished.

Commissioner Blanco moved to deny approval of Mr. Wilson's request to use the tradename Ala Moana Realty. Commissioner Sodehara seconded the motion and carried unanimously.

SPOT Real Estate School

After review of Information Officer's report on this matter, which was previously distributed,

Commissioner Blanco moved to approve application for real estate school subject to specified conditions in report. Commissioner Sodehani seconded the motion and unanimously approved.

Staff Contract

Commissioner Damron moved to go into executive session to discuss personnel matters about the staff contract. The motion was seconded by Commissioner Sodehani and unanimously carried.

Commissioner Blanco moved to get out of executive session and into regular session. The motion was seconded by Commissioner Sodehani and unanimously approved.

Commissioner Blanco moved to approve the contract of the Information Officer as budgeted. Commissioner Sodehani seconded the motion and unanimously approved.

Next Meeting:

March 25, 1986, 9:00 a.m.
Board Room, 2nd Flr, Kamamalu Bldg

Adjournment:

There being no further business, the meeting was adjourned at 12:25 p.m.

Recorded by:



Calvin Kimura
Acting Executive Secretary